

Calendar No. 434

105TH CONGRESS  
2D Session

**S. 2095**

[Report No. 105-224]

**A BILL**

To reauthorize and amend the National Fish and  
Wildlife Foundation Establishment Act.

JUNE 25, 1998

Reported with amendments

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Establishment Act.

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## IN THE SENATE OF THE UNITED STATES

MAY 20, 1998

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. LOTT, Mr. DASCHLE, Mr. BAUCUS, Mr. BREAUX, Mr. GRAHAM, Mr. WYDEN, Mr. SMITH of New Hampshire, Mr. SARBANES, Mr. WARNER, Mr. STEVENS, Ms. SNOWE, Ms. COLLINS, Mr. BOND, Mrs. MURRAY, Mr. DOMENICI, Mr. GREGG, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JUNE 25, 1998

Reported by Mr. CHAFEE, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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## A BILL

To reauthorize and amend the National Fish and Wildlife  
Foundation Establishment Act.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Fish and  
3 Wildlife Foundation Establishment Act Amendments of  
4 1998”.

5 **SEC. 2. PURPOSES.**

6 Section 2(b) of the National Fish and Wildlife Foun-  
7 dation Establishment Act (16 U.S.C. 3701(b)) is amended  
8 by striking paragraph (1) and inserting the following:

9 “(1) to encourage, accept, and administer pri-  
10 vate gifts of property for the benefit of, or in con-  
11 nection with, the activities and services of the De-  
12 partment of the Interior or the Department of Com-  
13 merce, particularly the United States Fish and Wild-  
14 life Service and the National Oceanic and Atmos-  
15 pheric Administration, to further the conservation  
16 and management of fish, wildlife, and plant re-  
17 sources;”.

18 **SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.**

19 (a) ESTABLISHMENT AND MEMBERSHIP.—Section 3  
20 of the National Fish and Wildlife Foundation Establish-  
21 ment Act (16 U.S.C. 3702) is amended by striking sub-  
22 section (a) and inserting the following:

23 “(a) ESTABLISHMENT AND MEMBERSHIP.—

24 “(1) IN GENERAL.—The Foundation shall have  
25 a governing Board of Directors (referred to in this  
26 Act as the ‘Board’), which shall consist of 25 Direc-

1       tors appointed in accordance with subsection (b),  
 2       each of whom shall be a United States citizen.

3               “(2) REPRESENTATION OF DIVERSE POINTS OF  
 4       VIEW.—To the maximum extent practicable, the  
 5       membership of the Board shall represent diverse  
 6       points of view relating to conservation and manage-  
 7       ment of fish, wildlife, and plants.

8               “(3) NOT FEDERAL EMPLOYEES.—Appointment  
 9       as a Director of the Foundation shall not constitute  
 10      employment by, or the holding of an office of, the  
 11      United States for the purpose of any Federal law.”.

12      (b) APPOINTMENT AND TERMS.—Section 3 of the  
 13      National Fish and Wildlife Foundation Establishment Act  
 14      (16 U.S.C. 3702) is amended by striking subsection (b)  
 15      and inserting the following:

16      “(b) APPOINTMENT AND TERMS.—

17               “(1) AGENCY HEADS.—The Director of the  
 18      United States Fish and Wildlife Service and the  
 19      Under Secretary of Commerce for Oceans and At-  
 20      mosphere shall be Directors of the Foundation.

21               “(2) APPOINTMENTS BY THE SECRETARY OF  
 22      THE INTERIOR.—

23               “(A) IN GENERAL.—Subject to subpara-  
 24      graph (B), after consulting with the Secretary  
 25      of Commerce and considering the recommenda-

tions submitted by the Board, the Secretary of the Interior shall appoint 23 Directors who meet the criteria established by subsection (a), of whom—

“(i) at least 6 shall be knowledgeable or experienced in fish and wildlife conservation;

“(ii) at least 4 shall be educated or experienced in the principles of fish and wildlife management; and

“(iii) at least 4 shall be knowledgeable or experienced in ocean and coastal resource conservation.

“(B) TRANSITION PROVISION.—

“(i) CONTINUATION OF TERMS.—The 15 Directors serving on the Board as of the date of enactment of this paragraph shall continue to serve until the expiration of their terms.

“(ii) NEW DIRECTORS.—The Secretary of the Interior shall appoint 8 new Directors; to the maximum extent practicable those appointments shall be made not later than 45 calendar days after the date of enactment of this paragraph.

1 “(3) TERMS.—

2 “(A) IN GENERAL.—Subject to subpara-  
3 graph (B), each Director (other than a Director  
4 described in paragraph (1)) shall be appointed  
5 for a term of 6 years.

6 “(B) INITIAL APPOINTMENTS TO NEW  
7 MEMBER POSITIONS.—Of the Directors ap-  
8 pointed by the Secretary of the Interior under  
9 paragraph (2)(B)(ii), the Secretary shall ap-  
10 point—

11 “(i) 2 Directors for a term of 2 years;

12 “(ii) 3 Directors for a term of 4  
13 years; and

14 “(iii) 3 Directors for a term of 6  
15 years.

16 “(4) VACANCIES.—

17 “(A) IN GENERAL.—The Secretary of the  
18 Interior shall fill a vacancy on the Board; to the  
19 maximum extent practicable the vacancy shall  
20 be filled not later than 45 calendar days after  
21 the occurrence of the vacancy.

22 “(B) TERM OF APPOINTMENTS TO FILL  
23 UNEXPIRED TERMS.—An individual appointed  
24 to fill a vacancy that occurs before the expira-

1           tion of the term of a Director shall be ap-  
 2           pointed for the remainder of the term.

3           “(5) REAPPOINTMENT.—An individual (other  
 4           than an individual described in paragraph (1)) shall  
 5           not serve more than 2 consecutive terms as a Direc-  
 6           tor, excluding any term of less than 6 years.”.

7           (c) PROCEDURAL MATTERS.—Section 3 of the Na-  
 8           tional Fish and Wildlife Foundation Establishment Act  
 9           (16 U.S.C. 3702) is amended by adding at the end the  
 10          following:

11          “(h) PROCEDURAL MATTERS.—The Federal Advi-  
 12          sory Committee Act (5 U.S.C. App.) shall not apply to  
 13          the Foundation.”.

14          (d) TECHNICAL AMENDMENTS.—

15               (1) Section 4(c)(5) of the National Fish and  
 16               Wildlife Foundation Establishment Act (16 U.S.C.  
 17               3703(c)(5)) is amended by striking “Directors of the  
 18               Board” and inserting “Directors of the Founda-  
 19               tion”.

20               (2) Section 6 of the National Fish and Wildlife  
 21               Foundation Establishment Act (16 U.S.C. 3705) is  
 22               amended by striking “Secretary” and inserting  
 23               “Secretary of the Interior or the Secretary of Com-  
 24               merce”.

1           (3) Section 6 of the National Fish and Wildlife  
 2           Foundation Establishment Act (16 U.S.C. 3705) is  
 3           amended by inserting “or the Department of Com-  
 4           merce” after “Department of the Interior”.

5 **SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.**

6           (a) PRINCIPAL OFFICE OF THE FOUNDATION.—Sec-  
 7           tion 4(a)(3) of the National Fish and Wildlife Foundation  
 8           Establishment Act (16 U.S.C. 3703(a)(3)) is amended by  
 9           inserting after “the District of Columbia” the following:  
 10          “or in a county in the State of Maryland or Virginia that  
 11          borders on the District of Columbia”.

12          (b) INVESTMENT AND DEPOSIT OF FEDERAL  
 13          FUNDS.—Section 4(c) of the National Fish and Wildlife  
 14          Foundation Establishment Act (16 U.S.C. 3703(c)) is  
 15          amended—

16               (1) by redesignating paragraphs (3) through  
 17               (7) as paragraphs ~~(8)~~ (7) through ~~(12)~~ (11), respec-  
 18               tively; and

19               (2) by inserting after paragraph (2) the follow-  
 20               ing:

21               “(3) to invest any funds provided to the Foun-  
 22               dation by the Federal Government in obligations of  
 23               the United States or in obligations or securities that  
 24               are guaranteed or insured by the United States;



1           “(4) to deposit any funds provided to the Foun-  
2           dation by the Federal Government into accounts  
3           that are insured by an agency or instrumentality of  
4           the United States;

5           “(5) to make use of any interest or investment  
6           income that accrues as a consequence of actions  
7           taken under paragraph (3) or (4) to carry out the  
8           purposes of the Foundation;

9           “(6) to use Federal funds to make payments  
10          under cooperative agreements entered into with will-  
11          ing private landowners to provide substantial long-  
12          term benefits for the restoration or enhancement of  
13          fish, wildlife, and plant resources on private land;”.

14          (c) AGENCY APPROVAL OF ACQUISITIONS OF PROP-  
15          ERTY.—Section 4(e)(1) of the National Fish and Wildlife  
16          Foundation Establishment Act (16 U.S.C. 3703(e)(1)) is  
17          amended by striking subparagraph (B) and inserting the  
18          following:

19               “(B) the Foundation notifies the Federal agen-  
20               cy that administers the program under which the  
21               funds were provided of the proposed acquisition, and  
22               the agency does not object in writing to the proposed  
23               acquisition within 45 calendar days after the date of  
24               the notification.”.

1 (d) REPEAL.—Section 304 of Public Law 102–440  
 2 (16 U.S.C. 3703 note) is repealed.

3 (e) AGENCY APPROVAL OF CONVEYANCES AND  
 4 GRANTS.—Section 4(e)(3)(B) of the National Fish and  
 5 Wildlife Foundation Establishment Act (16 U.S.C.  
 6 3703(e)(3)(B)) is amended by striking clause (ii) and in-  
 7 serting the following:

8 “(ii) the Foundation notifies the Federal agency  
 9 that administers the Federal program under which  
 10 the funds were provided of the proposed conveyance  
 11 or provision of Federal funds, and the agency does  
 12 not object in writing to the proposed conveyance or  
 13 provision of Federal funds within 45 calendar days  
 14 after the date of the notification.”.

15 (f) RECONVEYANCE OF REAL PROPERTY.—Section  
 16 4(e) of the National Fish and Wildlife Foundation Estab-  
 17 lishment Act (16 U.S.C. 3703(e)) is amended by striking  
 18 paragraph (5) and inserting the following:

19 “(5) RECONVEYANCE OF REAL PROPERTY.—  
 20 The Foundation shall convey at not less than fair  
 21 market value any real property acquired by the  
 22 Foundation in whole or in part with Federal funds  
 23 if the Foundation notifies the Federal agency that  
 24 administers the Federal program under which the  
 25 funds were provided, and the agency does not dis-

1 agree within 45 calendar days after the date of the  
2 notification, that—

3 “(A) the property is no longer valuable for  
4 the purpose of conservation or management of  
5 fish, wildlife, and plants; and

6 “(B) the purposes of the Foundation would  
7 be better served by use of the proceeds of the  
8 conveyance for other authorized activities of the  
9 Foundation.”.

10 (g) EXPENDITURES FOR PRINTING SERVICES OR  
11 CAPITAL EQUIPMENT.—Section 4 of the National Fish  
12 and Wildlife Foundation Establishment Act (16 U.S.C.  
13 3703) is amended by adding at the end the following:

14 “(f) EXPENDITURES FOR PRINTING SERVICES OR  
15 CAPITAL EQUIPMENT.—The Foundation shall not make  
16 any expenditure of Federal funds in connection with any  
17 1 transaction for printing services or capital equipment  
18 that is greater than \$10,000 unless the expenditure is ap-  
19 proved by the Federal agency that administers the Federal  
20 program under which the funds were provided.”.

21 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

22 Section 10 of the National Fish and Wildlife Founda-  
23 tion Establishment Act (16 U.S.C. 3709) is amended by  
24 striking subsections (a), (b), and (c) and inserting the fol-  
25 lowing:

1 “(a) AUTHORIZATION OF APPROPRIATIONS.—

2 “(1) IN GENERAL.—There are authorized to be  
3 appropriated to carry out this Act for each of fiscal  
4 years 1999 through 2003—

5 “(A) \$30,000,000 to the Department of  
6 the Interior; and

7 “(B) \$5,000,000 to the Department of  
8 Commerce.

9 “(2) REQUIREMENT OF ADVANCE PAYMENT.—

10 The amount made available for a fiscal year under  
11 paragraph (1) shall be provided to the Foundation  
12 in an advance payment of the entire amount on Oc-  
13 tober 1, or as soon as practicable thereafter, of the  
14 fiscal year.

15 “(b) ADDITIONAL AUTHORIZATION.—In addition to  
16 the amounts authorized to be appropriated under sub-  
17 section (a), the Foundation may accept Federal funds  
18 from a Federal agency under any other Federal law for  
19 use by the Foundation to further the conservation and  
20 management of fish, wildlife, and plant resources in ac-  
21 cordance with the requirements of this Act.

22 “(c) USE OF FEDERAL FUNDS.—

23 “(1) IN GENERAL.—Subject to paragraphs (2)  
24 and (3), Federal funds provided to the Foundation  
25 under this section shall be used by the Foundation

1 for matching, in whole or in part, contributions  
 2 (whether in currency, services, or property) made to  
 3 the Foundation by private persons and State and  
 4 local government agencies.

5 “(2) PROHIBITION ON USE FOR ADMINISTRA-  
 6 TIVE EXPENSES.—No Federal funds provided to the  
 7 Foundation under this section shall be used by the  
 8 Foundation to pay for administrative expenses of the  
 9 Foundation, including for salaries, travel and trans-  
 10 portation expenses, and other overhead expenses.

11 “(3) REQUIREMENT OF NON-FEDERAL  
 12 MATCH.—No Federal funds provided to the Founda-  
 13 tion under this section shall be used by the Founda-  
 14 tion to carry out a cooperative agreement under sec-  
 15 tion 4(c)(6) unless the funds are matched on at least  
 16 a 1-for-1 basis by non-Federal contributions to the  
 17 ~~Foundation.~~ *Foundation.*

18 “(4) LIMITATION ON USE OF FUNDS.—No *Fed-*  
 19 *eral funds appropriated under the authority granted*  
 20 *by this Act shall be used to support lobbying or litiga-*  
 21 *tion by any recipient of a Foundation grant.*”.